

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

ANNA WHITE FERRARACCIO,

Plaintiff,

v.

CIVIL ACTION NO. 5:24-cv-00700

NEW PEOPLES BANK,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Defendant New Peoples Bank's Motion to Dismiss [ECF 19], filed March 24, 2025, as well as Plaintiff Anna White Ferraraccio's Motion to Amend [ECF 37], filed June 21, 2025. The matters are ready for adjudication.

I.

Ms. Ferraraccio, formerly *pro se*, instituted this action on December 5, 2024, against Peoples Bank based on its alleged discrimination against Ms. Ferraraccio in her attempts to procure financing. [ECF 1]. On March 17, 2024, Ms. Ferraraccio filed her First Amended Complaint [ECF 18]. Peoples Bank moved to dismiss the Amended Complaint on March 24, 2025. [ECF 19].

On May 27, 2025, the Court entered an Order [ECF 25], giving Ms. Ferraraccio until June 10, 2025, to file a response to Peoples Bank's Motion to Dismiss. Counsel thereafter appeared on Ms. Ferraraccio's behalf [ECFs 26, 30] and moved for a 10-day extension of that deadline to June 20, 2025 [ECF 29], which the Court granted [ECF 33]. On June 21, 2025, Ms.

Ferraraccio moved for leave to amend her First Amended Complaint “to add claims for violation of the Equal Credit Opportunity Act and Fair Housing Act and to otherwise clean up the *pro se* pleading filed in this matter.” [ECF 37 ¶ 2]. Peoples Bank filed no response in opposition.

II.

Pursuant to Rule 15(a) “leave to amend a pleading shall be freely given ‘when justice so requires.’” *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 509 (4th Cir. 1986). Our Court of Appeals has “interpreted Rule 15(a) to provide that ‘leave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.’” *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006) (citing *Johnson*, 785 F.2d at 509). “Whether an amendment is prejudicial will often be determined by the nature of the amendment and its timing.” *Id.* at 427. A proposed amendment is futile when it is “clearly insufficient or frivolous on its face.” *Save Our Sound OBX, Inc. v. N. Carolina Dep't of Transportation*, 914 F.3d 213, 228 (4th Cir. 2019) (quoting *Johnson*, 785 F.2d at 510). “A proposed amendment is also futile if the claim it presents would not survive a motion to dismiss.” *Id.* (citing *Perkins v. United States*, 55 F.3d 910, 917 (4th Cir. 1995)).

III.

For good cause shown, Ms. Ferraraccio’s Motion [ECF 37] is **GRANTED**. The Court **DIRECTS** the Clerk to file the Second Amended Complaint [ECF 37-1] as the operative pleading in this matter. The Court further **ORDERS** that Peoples Bank’s Motion to Dismiss [ECF 19] is **DENIED AS MOOT WITHOUT PREJUDICE**.

The Court **DIRECTS** the Clerk to send a copy of this written opinion and order to counsel of record and to any unrepresented party.

ENTER: July 16, 2025



A handwritten signature in black ink that reads "Frank W. Volk". The signature is written in a cursive, flowing style.

Frank W. Volk
Chief United States District Judge